

SENATE BILL 314
By Miller

AN ACT to amend Tennessee Code Annotated, Title 3, Chapter 17; Title 38; Title 39; Title 48 and Title 49, relative to annual events operated for the benefit of §501(c)(3) organizations located in Tennessee pursuant to Article XI, Section 5 of the Constitution of Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 3, Chapter 17, is amended by adding the following language as a new part:

§ 3-17-201.

As used in this part, unless the context otherwise requires:

(1) "School" means a public school operated in this state by a local education agency, a charter school located in this state and organized under title 49, chapter 13, part 1, a private school located in this state and recognized as a category I, II, or III school under the rules of the state board of education, the Tennessee School for the Blind, the Tennessee School for the Deaf, or the Alvin C. York Agricultural Institute;

(2) "School affiliated organization" means an entity that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(3) of the Internal Revenue Code that is affiliated with a school, including, but not limited to, organizations of parents and teachers or booster clubs, or the school itself, if the school is exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(3) of the Internal Revenue Code; and

(3) "School board" means the board of education of a local education agency, the board of directors or governing body of a charter school organized

under title 49, chapter 13, part 1, the board of directors of a private school recognized as a category I, II, or III school under the rules of the state board of education, or, with respect to the Tennessee School for the Blind, the Tennessee School for the Deaf, or the Alvin C. York Agricultural Institute, the state board of education.

§ 3-17-202.

(a) Under the provisions of this part, a school affiliated organization may operate an annual event as defined in § 3-17-102(2) to further its mission of support of such school's programs and purposes. A school affiliated organization that chooses to operate an annual event under this part need not comply with the provisions of part 1 of this chapter unless such provisions are expressly made applicable to such annual events operated by school affiliated organizations.

(b) A school affiliated organization shall not operate more than one (1) annual event within any twelve-month period beginning July 1 and ending June 30. If a school affiliated organization chooses to operate an annual event during an event period under this part, then it shall not operate an annual event during the same event period under part 1 of this chapter. If a school affiliated organization chooses to operate an annual event during an event period under part 1 of this chapter, then it shall not operate an annual event during the same event period under this part.

§ 3-17-203

(a) A school affiliated organization desiring to conduct an annual event under this part shall request approval of such event from the school board responsible for operation of the school with which it is affiliated. If a majority of the members of the school board who are entitled to vote approve the proposed event, the school affiliated organization shall apply to the secretary of state for inclusion of the event on the omnibus list filed by the secretary with the clerk of the senate and the clerk of the house of representatives pursuant to §3-17-103(b). Such application shall be filed prior to November 1 for an annual event to be conducted in the twelve-month period beginning July 1 of the next year and ending on the following June 30. The application required

under this part shall include the name and mailing address of the school affiliated organization, a copy of the organization's determination letter from the Internal Revenue Service showing that the organization is exempt from federal income taxation under §501(c)(3) of the Internal Revenue Code, the name and mailing address of the school board, a copy of the minutes of the school board showing approval of the annual event, the name and address of the school with which the organization is affiliated, the name of the event, a description of the type of lottery game to be conducted, the event date for the event, the location of the event, and a description of the proposed use of the funds. The event date shall comply with § 3-17-102(4). The location of the event shall be in the county in which the school with which the organization is affiliated is located.

(b) The secretary shall not charge a fee for the processing of annual event applications under this part.

§ 3-17-204.

(a) If the secretary finds that an application meets the requirements of § 3-17-203, that the school affiliated organization has submitted documentation showing that it has been recognized by the internal revenue service as a tax exempt 501(c)(3) organization and that such exemption is valid at the time of filing of the application, and that the type of lottery game to be conducted is a game permitted under § 3-17-102(8), then the secretary shall include such event on the omnibus list transmitted to the clerk of the senate and to the clerk of the house of representatives under a separate category for 501(c)(3) school affiliated organizations.

(b) If an annual event proposed to be conducted by a school affiliated organization is not included in the omnibus list, the secretary shall transmit notification to the school affiliated organization and the school board stating the basis for such non-inclusion. The secretary shall transmit such notice to the school affiliated organization at the organization's mailing address shown in the application and the school board at the board's mailing address shown in the application.

(c) The school affiliated organization whose proposed annual event is not included in the omnibus list may request in writing that the secretary reconsider the

determination; provided, that a majority of the members of the school board who are entitled to vote approves such request for reconsideration and such written request and any supporting documentation is filed with the secretary within ten (10) calendar days from the date of notification of non-inclusion. The secretary shall reconsider such determination and issue a final decision within ten (10) calendar days of receipt of such written request for reconsideration. The decision of the secretary shall be final and not subject to further review.

(d) Upon authorization by the general assembly, the clerk of the house last approving such authorization shall transmit a copy of such authorization to the secretary and to each district attorney general. The secretary shall transmit such authorization to each authorized school affiliated organization at the mailing address listed in such organization's annual event application and to the school board at the mailing address listed in the annual event application. Such authorization shall be posted on the web site of the secretary with such additional information as the secretary deems appropriate. At a minimum, the secretary shall post the name of the school affiliated organization, the name and address of the school with which such organization is affiliated, the name of the event, the type of lottery game, the event date for the event and the location of the event.

§ 3-17-205.

(a) An annual event conducted under this part shall be managed, conducted and operated only by unpaid volunteer members of the school affiliated organization or other unpaid volunteers.

(b) An annual event conducted under this part shall comply with the requirements of § 3-17-103(d), including the requirement for notification of each chief law enforcement officer of the county or municipality in which the event is to be conducted.

(c) No annual event conducted under this part shall be operated at multiple locations.

§ 3-17-206.

Within ninety (90) days following the event date given in the application to the secretary, the school affiliated organization shall make an accounting of revenues and expenses of the event to the school board. Within six (6) months following the event date and every six months (6) months thereafter, the school affiliated organization shall report any expenditure of the net proceeds of the annual event during such period to the school board and the purposes or programs for which such net proceeds were expended. Such reports shall continue until all net proceeds of the annual event are expended. No other financial accounting shall be required of the school affiliated organization.

§ 3-17-207.

(a) The secretary of state is authorized to promulgate rules and regulations as the secretary of state may deem necessary to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) Notwithstanding the provisions of §§ 4-5-208 and 4-5-209 or any other provision of law to the contrary, the secretary of state is authorized to promulgate public necessity rules and emergency rules to implement the provisions of this chapter.

SECTION 2. Tennessee Code Annotated, Section 39-17-653(a), is amended by deleting the language “§ 3-17-104(a)(16)” and by substituting instead the language “§ 3-17-104(a)(16) or § 3-17-203(a)”.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.